

**GOVERNMENT OF ANDHRA PRADESH
ABSTRACT**

Public Services – Sri M.Sambasiva Rao, Prohibition & Excise Inspector, Mobile Party-II, Paderu, Visakhapatnam – Vishakapatnam District – Request for settlement of seniority on par with his junior Sri S.V.V.N.Babji Rao – Allowed - Orders – Issued.

REVENUE (EXCISE.I) DEPARTMENT

G.O.Rt.No. 367

Dated:13.03.2013.

Read the following:-

1. Reprn. dt.26.11.2009 of Sri M.Sambasiva Rao, Prohibition & Excise Sub-Inspector, ES Task force, Visakhapatnam.
2. From the Hon'ble APAT interim orders dt.25.02.2010 in O.A.No.1130/2010.
3. From the CPE Cr.No.9562/CPE/L4, dt.3.3.2010
4. Govt.Memo.No.52569/Ex.I(2)/2009-2, dt.28.05.2010.
5. Govt.Memo.No.36017/Ex.I(2)/2010-2, dt.28.09.2010.
6. From the CPE Cr.No.9562/2009/CPE/L4, dt.15.12.2010.
7. Govt.Memo.No.36017/Ex.I(2)/2010-7, dt.24.05.2011.
8. From the CPE Cr.No.9562/2009/CPE/L4, dt.28.07.2011.
9. From the Hon'ble APAT interim orders dt.03.11.2011 in O.A.No.8552/2011.
10. Memo.No.36017/Ex.I(2)/2010-8, Dated:05.07.2012.
11. From the CPE Cr.No.9562/2009/CPE/L3, dt.09.08.2012
12. Memo.No.36017/Ex.I(2)/2010-9, Dated:15.08.2012.
13. From the CPE Lr.Cr.No.9562/2009/CPE/L3, dt.26.09.2012.
14. Memo.No.36017/Ex.I(2)/2010-10, Dated:16.11.2012.
15. Memo.No.36017/Ex.I(2)/2010-11, Dated:07.12.2012.
16. Objection from Sri S.V.V.N. Babji Rao, P&ES, Guntur, dt.28.01.2013

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ORDER:

In the reference fourth read above, Government have issued orders considering the request of Sri M. Sambasiva Rao, Prohibition & Excise Sub-Inspector, now working as Prohibition and Excise Inspector, for his deemed promotion to the Post of Lab Asst. in the slot occupied by Sri S.V.V.N.Babji Rao, his junior from the same feeder category (i.e. Ministerial Service working in the zone) as per the cycle of rotation prescribed in the service rules issued in G.O.Ms.No.59, Rev(Ex)Dept, Dated:19.01.1982 and guidelines issued vide Cr. No.33222/Ex/H2/86-X, Dt:03.10.1989. On such deemed promotion Sri S.V.V.N. Babji Rao and his juniors have to be pushed down to the subsequent cycles in the appropriate slots meant for them. It was also ordered that the seniority list in the cadre of Lab-Asst. shall be recast accordingly after giving notices to all the persons likely to be affected.

2. In the reference sixth read above, the Commissioner of Proh. & Excise has stated that the name of Sri S.V.V.N.Babji Rao cannot be pushed down to the next cycle for want of vacancies and there was no scope for arising of vacancies of Lab Assistant in view of discontinuation of the hitherto existing promotion channel as the special rules were re-issued vide G.O.Ms.No.950, Rev.(Ex.) Dept., dt.28.11.1998 as per the recommendations of the OMC (SPF & Ser) and the method of appointment was only by direct recruitment to the equivalent re-designated category of Asst. Chemical Examiner (earlier Lab. Asst.) and hence Sri S.V.V.N.Babji Rao cannot be pushed down to the next cycle for want of vacancies as there was no scope for arising of further vacancies of Lab Assistant in view of discontinuation of promotion channel from the category of Ministerial employees. In between 1995 and 28.11.1998 (date of issue of G.O.Ms.No.950) no vacancy arose for appointment by transfer to the category of Asst. Chemical Examiner. In the meantime Sri SVVN Babji Rao was further promoted as Asst. Excise Superintendent and Excise Superintendent and now Prohibition and Excise Superintendent.

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3. In the reference 9th read above, Sri M.Sambasiva Rao has filed another O.A.No.8552/2011 praying the Hon'ble Tribunal to consider and promote him as Asst. Prohibition and Excise Superintendent and Prohibition and Excise Superintendent in pursuance of the Memo.No.52569/Ex.I(2)/2009-2, Dt.28.05.2010. The Hon'ble Andhra Pradesh Administrative Tribunal, in its interim order dt.03.11.2011 in O.A.No.8552/2011, has directed the respondents to pass orders as per Rules and on merits on the report submitted by the 2nd respondent i.e., Commissioner of Prohibition and Excise, A.P., Hyderabad in Lr.Cr.No.9562/CPE/L4, dated:28.07.2011, within a period of six weeks.

4. Government, after examining the matter, have decided to consider provisionally the case of Sri M. Sambasiva Rao, Prohibition and Excise Inspector for his notional promotion as Asst. Prohibition and Excise Superintendent and Prohibition and Excise Superintendent on par with Sri S.V.V.N. Babji Rao (less meritorious than him for consideration to the post of Laboratory Assistant) to rectify the injustice earlier done to the individual in relaxation of Rule 33(a) of A.P. State and Subordinate Service Rules. Accordingly, in the reference 10th read above, the Commissioner of Prohibition & Excise, A.P., Hyderabad was requested to issue show cause notices to the persons likely to be affected in terms of Rule 24 of A.P.S. & S.S. Rules, 1996 and submit proposal to the Government along with his remarks on the representations received, if any, for taking further action in the matter.

5. In the reference thirteenth read above, the Commissioner of Prohibition and Excise, A.P., Hyderabad has stated that Sri G.Anjan Rao, Prohibition and Excise Superintendent, Saroor Nagar, Sri J.Harikishan, Prohibition and Excise Superintendent, Sanga Reddy, Sri T.David Ravi Kanth, Prohibition and Excise Superintendent, Tenali and Sri D.Srikanth Reddy, Prohibition and Excise Superintendent, Vizianagaram have submitted their objections stating that, only one person must be placed in the slot, either Sri S.V.V.N.Baji Rao or Sri M.Sambasiva Rao, as per the cycle of rotation in promotion from the category of Asst.Excise Superintendents including Inspectors of Excise and Chemical Examiners, who have put in (2) years of service as Asst. Excise Superintendent. Such promotion shall be on grounds of merit and ability, seniority being considered only where merit and ability are approximately equal and finally requested to fill up the Chemical Examiner slot either by Sri S.V.V.N.Babji Rao or M.Sambasiva Rao in promotion and do justice to the Asst. Excise Superintendent.

6. In the reference 14th and 15th read above, Government decided to issue notice to Sri S.V.V.N. Babji Rao, to show cause why he should not be pushed down so as to take last seniority rank among Prohibition and Excise Superintendents, who were promoted in the panel year 2009-2010, since he was promoted as Prohibition and Excise Inspector overlooking the superior claim of Sri M.Sambasiva Rao and subsequently got promotion as Asst.Prohibition and Excise Superintendent and Prohibition and Excise Superintendent and directed to submit his objections, if any, in the matter within (15) days from the date of receipt of this notice failing which further course of action as per the procedure will be taken up in this matter.

7. In the reference 16th read above, Sri S.V.V.N.Babji Rao, Prohibition and Excise Superintendent, Guntur has submitted the following objections:

1. The Commissioner of Prohibition and Excise, A.P., Hyderabad vide Cr.No.33222/Ex/H2/86.x, dated:3.10.1989 has issued certain guidelines in pursuance of orders of APAT in RP No.7477/88, dt.3.4.1989. The said judgment cannot be taken as a rule unless the special rules are amended in pursuance of the said judgment. The said judgment is applicable only in so far as that case is concerned. Even assuming the judgment is implemented and the promotions are to be made basing on the marks obtained in chemistry subject, the case of Sri M.Sambasiva Rao was not within the zone of consideration as on the date of his promotion i.e. 31.03.1995.

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2. Sri M.Sambasiva Rao had not filed any appeal before any authority i.e., either CPE or Govt. within the prescribed time and he never cited any particular reference or date for his claim after his promotion as Asst. Chemical Examiner. He filed an appeal before the Govt. on 26.11.2009 i.e., after lapse of nearly fifteen years which is against the statutory rules.
8. The above contentions of Sri S.V.V.N.Babji Rao are not acceptable for the following reasons:
 1. The criteria of % marks secured in Chemistry paper for considering promotion as Lab. Assistant was adopted as per the direction of the Andhra Pradesh Administrative Tribunal and the same was not challenged by Sri SVVN Babji Rao or any other employee or even the Government. Hence it (APAT orders) has become final.
 2. It is not correct to state that Sri M.Sambasiva Rao did not file any representation earlier against the injustice meted out to him. He did file representation before the Deputy Commissioner of Prohibition and Excise on 07.05.1995 and 17.06.1995, but the same were not disposed of/considered.
9. Hence the Government, after careful examination of the matter, hereby confirm the provisional decision taken by the Government considering the promotion to Sri M. Sambasiva Rao, Prohibition and Excise Inspector as Asst. Prohibition and Excise Superintendent and Prohibition and Excise Superintendent on par with Sri S.V.V.N. Babji Rao (less meritorious than him for consideration to the post of Laboratory Assistant) to rectify the injustice earlier done to the individual in relaxation of Rule 33(a) of A.P. State and Subordinate Service Rules, 1996 and Sri S.V.V.N. Babji Rao is pushed down so as to take last seniority rank among Prohibition and Excise Superintendents who were promoted in the panel year 2009-2010, since he was promoted as Assistant Chemical Examiner (Earlier Lab.Assistant) overlooking the superior claim of Sri M.Sambasiva Rao and subsequently got promotion as Asst.Prohibition and Excise Superintendent and Prohibition and Excise Superintendent.
10. The Commissioner of Prohibition & Excise shall take further necessary action accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

ASUTOSH MISHRA
PRINCIPAL SECRETARY TO GOVERNMENT

To
The Commissioner of Prohibition & Excise, A.P., Hyderabad.
Sri M.Sambasiva Rao, Prohibition and Excise Inspector through
Commissioner of Prohibition and Excise, A.P., Hyderabad
Sri S.V.V.N.Babji Rao, Prohibition and Excise Superintendent through
Commissioner of Prohibition and Excise, A.P., Hyderabad
Copy to the Deputy Commissioner of Prohibition & Excise, Visakhapatnam.
SF/SCs.

//FORWARDED :: BY ORDER//

SECTION OFFICER